

**LAND PLANNING AGENCY/
PLANNING AND ZONING COMMISSION**
COUNTY SERVICES BUILDING
ROOM 1028
September 4, 2002 - 7:00 P.M.
MINUTES

Board Present:

Ben Tucker, Chairman
Tom Mahoney, Vice Chairman
Dick Harris
Allan Peltz
Paul Tremel
Beth Hattaway
Dudley Bates

Staff Present:

Matt West, Planning Division Manager
Tony Matthews, Planning Division
Kathy Fall, Planning Division
Amada Smith, Planning Division
Jeff Hopper, Planning Division
Shannon Suffron, Development Review Division
John Thomson, Development Review Division
Karen Consalo, Assistant County Attorney

I. CALL TO ORDER

Chairman Tucker convened the meeting to order at 7:00 p.m.

II. ROLL CALL

Quorum was established.

III. ACCEPTANCE OF PROOF OF PUBLICATION

Motion by Commissioner Hattaway to approve proof of publication. Second by Commissioner Bates.

Motion passed unanimously. (7-0)

IV. APPROVAL OF MINUTES

Motion by Commissioner Mahoney to approve the minutes of the August 7, 2002, meeting. Second by Commissioner Bates.

39 **Motion passed unanimously. (7-0)**

40 **V. PRELIMINARY SUBDIVISION**

41 ***SOUTH TUSKAWILLA ROAD (PSP); M.E. McGuire/Madden -approximately***
42 ***41.55 acres; Preliminary Subdivision approval for a 142 lot, single family***
43 ***subdivision, zoned PUD; south side of Aloma Avenue (SR- 426), on the east side***
44 ***of Tuskawilla Road.***

45 ***Commissioner Maloy - BCC District 1***

Shannon Suffron, Planner

46 The applicant, Aloma Development, is seeking approval of the Preliminary Subdivision
47 Plan for the South Tuskawilla Road Property Planned Unit Development. The PSP is
48 located on the south side of Aloma (SR 426) and on the east side of Tuskawilla Road.
49 It is a 142 single family lot subdivision on approximately 41.56 acres. The internal
50 roads are private. Seminole County will be providing water and sewer.

51 The PUD requires the developer to negotiate an agreement with the property owners to
52 the east for shared access. The 14' existing right of way between the north and south
53 property boundaries will be vacated and replaced with a 50' public right of way.

54 Staff reviewed PSP and finds that it meets Seminole County subdivision regulations and
55 the requirements of the PUD.

56 Staff recommends approval of the Preliminary Subdivision Plan subject to the approval
57 of the Final Master Plan by the Board of County Commissioners.

58 **Motion by Commissioner Mahoney to approve the PSP subject to approval of**
59 **the Final Master Plan by the Board of County Commissioners. Second by**
60 **Commissioner Peltz.**

61 **Chairman Tucker asked about the current status of the 14' easement that**
62 **exists along Deep Lake Road?**

63 Mr. West said that as part of platting, the easement would have to be vacated. The
64 developers are working with the effected property owners to the south. There are
65 several 5 acre parcels to the south that they have been working with to renegotiate the
66 alignment of their access.

67 **Chairman Tucker said this was the same statement that was made at the last**
68 **meeting and now you are saying this will be done prior to final platting.**

69 Mr. West said staff couldn't plat the lots over the project until the easement is vacated.
70 It's almost going to be a simultaneous thing. The homeowners don't want give up their
71 access easement until they know a plat is being recorded that gives their new right of
72 ingress and egress.

73 **Chairman Tucker asked if that has all been negotiated?**

74 Mr. West said that is the way it is going to have to work otherwise staff couldn't
75 approve the plat.

76 **Commissioner Mahoney said the plat is conditioned on that agreement being**
77 **made.**

78 Mr. West said yes.

79 **Chairman Tucker said there is an existing easement on that property and in**
80 **order to file for a rezoning there has to be full standing as the owner of that**
81 **property. This is a legal opinion that came out of the County office.**

82 Mr. West asked if that was being asked in respect to the easement?

83 **Chairman Tucker said that would be the only place it would apply. It is his**
84 **understanding, as to ownership, that in Florida we define that as having a**
85 **full bundle of rights on a piece of property. Would this easement constitute a**
86 **part of that "bundle of rights"?**

87 Ms. Karen Consalo, Assistant County Attorney, said to file for a rezoning, you must own
88 the property or be an agent of the owner. The owner of the property would have given
89 away a right in granting an easement to someone else and then that someone else
90 would have a "stick in a bundle of rights" to that property and they would only have
91 one stick. The owner of the property would be, in a way, short a stick, because they
92 have given certain rights to some other party.

93 **Chairman Tucker said that in respect to this easement, there are several**
94 **owners. Those that have this bundle of rights, and those that have the**
95 **easement bundle of rights and together they own the property. Is that**
96 **correct?**

97 Ms. Consalo said there is one property owner that is granting an easement to several
98 other nearby property owners.

99 Mr. West said there is actually an existing private easement for several lots.

100 Ms. Consalo said the owner of the property would have his bundle of rights but all these
101 individual property owners nearby who have a right of easement would also have
102 certain rights to his property, which he could not give away. They would have to agree
103 to give those rights away to the easement.

104 Mr. West said it wouldn't preclude them from rezoning the property provided he allows
105 them to still maintain access to their property.

106 Ms. Consalo said she would have to actually see the easement document, but generally
107 the easement wouldn't control zoning. It would only be one use of the land and as long
108 as the zoning does not affect that use of the land, the easement should not get in the
109 way of rezoning.

110 Mr. West said that from standard course of procedure there is are 100' Florida Power
111 easements on property all over the County. Staff has rezoned property even though it
112 has a power easement over it without asking the Power Company their permission.

Chairman Tucker said he can understand the rezoning but when you start subdividing and platting lots in anticipation of building structures that would go over that easement, he feels that would constitute a different situation.

Ms. Consalo asked if staff had the easement document.

Ms. Suffron said no.

Ms. Consalo said if she could read the easement document, Chairman Tucker may be correct. If the platting would somehow allow people to build into the easement and if it was a right of ingress and egress, it would interfere with the easement. She feels Mr. West is saying this is something staff would address at platting. She sees Chairman Tucker's concern that by rezoning, this may enable people to somehow encroach on that easement.

Chairman Tucker said it is rezoned and that doesn't effect that specific stick of the bundle of rights. However, when you start building something over that, then that stick owner is being impacted substantially and that issue has not been resolved. Staff keeps saying it's going to get resolved but he is not comfortable in voting on it without it being resolved. For that reason, he will not be voting in favor of this item tonight.

Commissioner Tremel asked if the property owners that use this easement to access their property voiced any objection to these proceedings?

Mr. West said that at the preliminary PUD, they were all present and they all agreed to it.

Commissioner Tremel said that they have no problem as long as another access easement is provided to get to their property.

Mr. West said that is correct. There were also some other issues the homeowners to the south voiced, but the developer has worked them out. Staff does not have a final signed request to vacate the easement, but staff can't plat it until they have the document that states they have given up their rights.

Motion passed 6-1. Chairman Tucker voted against the motion.

V. OLD BUSINESS

THIS ITEM WAS MOVED AND PRESENTED WITH ITEM VII. E & F (NEW BUSINESS).

A. FUTURE LAND USE ELEMENT TEXT AMENDMENT TO VISION 2020 NEW POLICY. LOT SPLITS IN THE COUNTY'S EAST RURAL AREA.
Seminole County BCC; allowance of a single lot split in the County's East Rural Area for those lots meeting certain criteria prior to September 11, 1991.

Countywide

Matt West, Planning Manager

152 **B. LAKE JESUP WOODS;** *Harling Locklin & Assoc./Hugh Harling;*
153 *approximately 81 acres; Large Scale Comprehensive Plan Amendment*
154 *from Suburban Estates (SE) to Low Density Residential (LDR);*
155 *(01F.FLU01); Rezone from A-1 (Agriculture) to PUD (Planned Unit*
156 *Development); south of Myrtle Street, north of Cadillac Street, and east*
157 *of Hester Avenue.*

158 *Commissioner McLain - District 5* *Amanda Smith, Senior Planner*

159 Request by applicant that this item be continued to the Spring 2003 cycle.

160 **Motion by Commissioner Mahoney to continue this item to the Spring 2003**
161 **Cycle. Second by Commissioner Hattaway.**

162 **Motion passed unanimously. (7-0)**
163

164 **VII. NEW BUSINESS**

165 **A. DEVELOPMENT AGREEMENT – HEATHROW INTERNATIONAL**
166 **BUSINESS CENTER;** *Ken Wright of Shutts & Bowen LLP Representing*
167 *Colonial Grande; Amendment to the Development Agreement with the*
168 *County relating to the International Parkway and Recreational Trail within*
169 *the Heathrow International Business Center.*

170 *Commissioner McLain - District 5* *John Thomson, Principal Coordinator*

171 Mr. Thomson entered a letter into record from Shutts Bowen LLP requesting a
172 continuance to the next available Planning and Zoning Commission meeting.

173 **Motion to continue this item to the October 2, 2002, LPA meeting passed by**
174 **consensus.**

175

176 **ITEMS 7B AND 7C WERE PRESENTED TOGETHER.**

177 **B. DEEP LAKE PUD -** *Harvey Slayton and Susan S. Irelan; approximately*
178 *18.66 acres; major revision to the PUD (Planned Unit Development)*
179 *Preliminary Master Plan for the development of mixed residential and*
180 *commercial uses; located on the southside of SR 426 (Aloma Avenue),*
181 *east of the Tuskawilla Road Extension and on west side of Deep Lake*
182 *Road)*

183 *Commissioner Maloy - District 1* *Matt West, Planning Manager*

184 The applicant is proposing a substantial revision to the Preliminary Master Plan that was
185 approved for Deep Lake PUD in April 2002. Proposed changes raise significant issues
186 related to traffic access. The plan approved at that time consisted of three lots for
187 commercial and/or office use, totaling approximately 4 acres, and a fourth lot for
188 townhouse development. On this lot, the preliminary plan submitted for review
189 illustrated 65 residential units on 11 acres, for an overall density of 5.9 units per acre.

As a condition of approval, the Board of County Commissioners directed the applicant to make a "good faith effort" to negotiate an agreement with the neighboring property owner to the east for shared access to SR 426. Failing that, the applicant was to relocate the project access road to the west property line. Traffic safety was a major concern, and the BCC's intention was that Deep Lake make use of an FDOT-approved future intersection on the adjoining Slayton property or, alternatively, provide a separate access at a safe distance to the west.

As it is currently being proposed, the plan shows the entrance road adjacent to the applicant's east property line. The applicant reports that no progress has been made toward a shared-access agreement with the Slaytons. In light of this, the applicant is seeking relief from this condition of approval.

The staff supports the original decision of the Board, unless the applicant can demonstrate that the proposed access will function in harmony with the Slayton access. A 1993 court decision established the location of this future intersection on the Slayton property, and it is not subject to being easily moved at this time. The Staff foresees a traffic conflict and circulation problem with the Deep Lake entrance situated as shown on the revised plan.

A total of 180 dwelling units, at a density of 13 units per gross and 17+ units per net buildable acre, is now being proposed. While the density presented in the new plan is an increase over the previous submittal, the underlying future land use designation of HIP supports a maximum of 20 dwelling units per acre. The proposed density of Deep Lake is comparable to that of Trinity Retail Center, adjoining to the west and north, and approved in March 2002 at a density of 10.5 units per acre.

Additional changes to Deep Lake include a reduction in dwelling unit size, elimination of garages, and exchange of a tennis court for a general purpose "sport court." Also, landscaped retention areas have been removed. (Retention for the site is now proposed to be located on the South Tuskawilla project to the south, a single family development being proposed by the same applicant. This is allowable with appropriate easements and agreements tying the two developments together for stormwater management purposes.)

The existing zoning designations and land uses are as follows:

Existing zoning and future land use to the north is PUD, PCD Higher Intensity Planned Development and Low Density Residential; to the south, A-1 (approved for PUD) Low Density Residential; to the east, A-1 Higher Intensity Planned Development; to the west, PUD, PCD, Higher Intensity Planned Development.

Adequate facilities and services must be available concurrent with the impacts of development. If required by the concurrency review, additional facilities and services will be identified. The proposed zoning is consistent with the adopted future land use designation assigned to the property, and does not alter the options or long range strategies for facility improvements or capacity additions included in the Support

230 Documentation to the Seminole County Comprehensive Plan. Water and sewer service
231 are being provided by Seminole County.

232 ORIGINAL STAFF RECOMMENDATION

233 Staff cannot recommend the proposed access plan at this time. In other respects, the
234 revisions being proposed at this time are consistent with the future land use designation
235 of the Vision 2020 Plan, and compatible with surrounding land uses. Subject to
236 compliance with Code requirements related to open space, drainage and other
237 development standards, the proposed alterations to the Preliminary Master Plan are
238 reasonable and appropriate to the area.

239 Staff recommends approval of the requested modifications to the Preliminary Master
240 Plan, subject to the following:

- 241 1. Access to the development shall be provided to and from SR 426 by means of an
242 entrance road following the west property line of the subject site. In the event of
243 an agreement with the neighboring property owner to the east, there shall be
244 shared access through the FDOT-approved intersection and the west entrance
245 shall be removed.
- 246 2. Residential density shall not exceed 20 units per net buildable acre, as defined in
247 the Seminole County Land Development Code.
- 248 3. Landscaping and lighting shall be consistent with the standards of the Lake Mary
249 Boulevard Overlay Ordinance.
- 250 4. There shall be a 40-foot setback provided adjacent to Mr. Saliga's property to the
251 south.
- 252 5. The county's open space requirements shall be met for the entire PUD at 30
253 percent. Individual lots for the proposed development shall provide at least 25
254 percent open space.
- 255 6. Prior to Final Engineering Approval, the Owner and County staff shall assess the
256 feasibility of utilizing traffic-calming devices along Deep Lake Road.
- 257 7. The owner shall install hedges on the east side of Tuskawilla Road where it abuts
258 the project.
- 259 8. Within the buffer between townhomes and South Tuskawilla Road, the Owner
260 shall install four 3" caliper oak trees per 100 linear feet, and understory trees at
261 10 foot intervals.
- 262 9. The commercial/office portion of the PUD is approved for permitted and special
263 exception uses within the C-2 zoning district, with the exception of off- site
264 signage (billboards), mechanical garages, paint and body shops, contractor's
265 equipment storage yard, drive-in theaters, and adult entertainment
266 establishments.
- 267 10. The Owner shall provide recreational amenities as shown on the Preliminary PUD
268 Master Plan.

269 Mr. West submitted new language into the record amending staff's report.

270 Prior to final engineering approval, the developer must reach an agreement with the
 271 property owner to the east (Greenway Center South) regarding a joint access road to
 272 SR 426. Said agreement shall include, but not be limited to, the following issues:

- 273 1. Provision of utilities such as water and sewer specifying location, sizes and
 274 capacity to serve development on each side of the joint access road.
- 275 2. Aligning the joint access road with the proposed driveway for the development
 276 on the north side of SR 426 (Greenway Center North).
- 277 3. Specifying driveway locations along the joint access road for development on
 278 both sides.

279 Should an agreement regarding joint access not be reached prior to final engineering
 280 approval, access to SR 426 from the project must be moved as far westward as possible
 281 to provide safe ingress and egress

282 This is a mixed use development located on the south side of SR 426, directly north of
 283 this PSP that this Commission just approved and is somewhat interrelated to the
 284 development to the south. It has two commercial outparcels, as well as a tract for
 285 townhomes on the south side. It is actually sharing utilities, access and has all its
 286 drainage being stored on the South Tuskawilla property. They are interrelated because
 287 they are sharing several elements.

288 From the preliminary PUD to the plan you have before you, there have been a couple of
 289 changes. The preliminary PUD showed retention on this site. Now the retention is
 290 being provided in the subdivision to the south. The preliminary PUD plan had
 291 allowances up to 20 dwelling units per acre. This is HIP property and HIP allows up to
 292 20 dwelling units per acre. The preliminary showed a conceptual plan with 65
 293 townhomes on it and that has been increased to 180 but it is within the allowable
 294 density of HIP land use. To the northwest there is a mini-warehouse facility, directly to
 295 the west there is another townhome project that has been approved and to the east
 296 there is other HIP property that abuts the Greenway and SR 426.

297 Staff was recommending approval of this project subject to a list of conditions but there
 298 is also a section that we dealt with where staff was objecting to the access, as
 299 proposed. The original PUD plan approved by the Commission required the main
 300 entrance onto 426 as far westward as possible towards the west property line. That
 301 was a direct result of the fact that the property to the east had an agreement with DOT
 302 to have full access with a traffic signal to line up off-center of the property line. They
 303 had not worked out a cross-access agreement so that they could share access and both
 304 projects could have access to the future traffic light.

305 The property owners to the east and the developer of Deep Lake PUD have been in
 306 discussions in the past. Staff has been talking to both parties as well. The language
 307 that has been handed out is language that staff is recommending be placed into the
 308 record for the associated Development Order for Deep Lake PUD.

309 The original recommendation was for denial of the access plan as proposed, but staff
310 feels that both parties are working toward a joint access agreement. The best possible
311 situation from a planning and safety standpoint is if the property to the east, which is
312 HIP, and the Deep Lake property share an access at the traffic light. In our discussion
313 with both owners, staff drafted language that we would like to include in our
314 recommendation of approval for this project.

315 It basically states that prior to Final Engineering approval for the Deep Lake PUD, the
316 developer must reach an agreement with the property owner to the east and that
317 agreement would regard a joint access to SR 426.

318 Both property owners have communicated to staff that they are working together. We
319 are coming closer to a sound planning decision that will have one access at a traffic
320 light for both properties.

321 Staff is recommending approval of this major amendment to the PUD subject to all the
322 conditions contained in the proposed Development Agreement plus the language that
323 has been handed out tonight.

324 **Commissioner Mahoney asked if the language that was handed out tonight**
325 **replaced #1 of the existing conditions?**

326 Mr. West said yes, it does.

327 Mr. Stelling, representing the developer, said the project is within the HIP zoning and
328 could have an even heavier density than what is being asked for. It is a great product
329 and he has presented a realignment which actually shows the road curving over onto
330 the land owned by the Slaytons and Mr. Banks. We anticipate the agreement will be
331 reached prior to appearing before the BCC, which would iron that out.

332 **Commissioner Tremel asked if he agreed with the other 9 conditions?**

333 Mr. Stelling said yes.

334 PUBLIC COMMENT

335 Linda Dodge, 611 N. Wymore Road, spoke at the request of the Slaytons and Mr. Banks
336 who are two of the property owners to the east. The Slaytons and Mr. Banks met with
337 staff and they feel they have been able to work out a mechanism to resolve this
338 roadway issue. They are in support of this application for this property and staff's
339 recommendation for approval.

340 Wendy Saliga, 3055 Tuskawilla Road, spoke in opposition to the request. She
341 presented a map that showed how close her property was to the proposed project.

342 In the Seminole County Vision 2020 plan, it reads, over and over about the way to keep
343 the integrity of our County a good one. The Vision 2020 Plan's intent is to look at our
344 community and consider what it will be in the future. It is easy to get excited about
345 projects that are new and reviving in concept. That is not what is happening. The
346 builders and developers of this project are trying to get as many units as they can in
347 and that's that.

The already approximately 65-unit community is a good project, which is why the Board of County Commissioners approved it. Taking this community to 180 units, going to smaller square footage, doing away with garages, and eliminating their retention areas is not compatible. It certainly does not translate the Seminole County Vision 2020 Plan by creating something for the future.

She would like for you to recommend to the Board of County Commissioners, that they deny this major revision to the PUD of Deep Lake Road. I believe that the current approved project is compatible in capacity of units, and is in keeping with the neighboring project. The project has appropriate amenities for the capacity of 65 units and has taken steps to be environmentally friendly.

Her suggestions for better compatibility and their reasons are as follows:

1. Concrete Block Wall northern boundary of our property
 - ? Security- serve as sound buffer and Hinder foot traffic (especially important during construction phase)
 - ? Compatibility- Preserve private rural community and preserve property value
 - ? Environment considerations - Water run off barrier
 - ? Containment- Not easily climbed and would encourage residents to stay within their own community
2. Wetland Considerations- put retention areas around perimeter of wetland easement and put garages in plan (both items in original plan)
 - ? The major revision has 48 units on the perimeter of the wetland. The land is higher. What happens to the runoff? The new plan calls for lots of asphalt and no garages.
 - ? In the past 6 months the wetland has gone from completely empty to over 7 feet deep, our property is at lower level. Where is the extra water going to go?
3. Too high of a density- lower the number of units per acre
 - ? Too much of a burden on our schools For example, John Evans Elementary (only two years old), 1055 students enrolled, and 6 portable classrooms
 - ? too much of a burden on traffic — access in/out
 - Deep lake PUD (#z2002-008) townhome 180 units
 - South Tuskawilla PSP (#z2001-057) homes 142 units
 - Trinity Estate PUD(#z2001-046) townhome 168 units
 - 500 new families.- minimally 1,000 new residents
 - ? Too much burden on already over burdened emergency response times (and there are no plans for new fire station in this area)

Many others and myself plan to live here a long time. It is possible for more than 10 years? The recommendations that you make will affect us in the long-term. Please,

386 Please, do not approve the Major Revision of the Deep Lake PUD. What do you think
387 this community will look and operate like in 10 years. The developers will probably
388 never live here. They will build and be gone in a few years. The above mentioned
389 suggestions; the concrete wall, wetland considerations, lowering density are in keeping
390 with Seminole County's Vision 2020 Plan and perpetuate the ideals for compatibility of
391 our neighborhood now and in the future.

392 Gabriel Acks, 5780 Deep Lake Road, spoke in opposition to the request. She is
393 concerned about the traffic. Right now as it stands when you are coming on Deep Lake
394 Road and want to make a left hand turn on Aloma, you can't. You have to go
395 underneath 417 to make a left turn. If this is not worked out with the light, this is not
396 going to work. You cannot put all this traffic on Aloma where everybody is turning
397 right, then make a U-turn to make a left. She is also concerned about the drainage.
398 Even though everyone assures us that everything is going to run into one pond, with
399 the 80 units now being changed into 180, they say the County Engineers will work it
400 out. We all know there are a lot of subdivisions in the area that were assured the same
401 thing and they are now having flooding. Her other concern is that there are not types
402 of recreation facilities for all these people. All these families are going to be in a small
403 area. Where are the children going to go and what are they going to do? There are a
404 couple of 5 acre lots to the south where she feels some of these children will
405 congregate and hang out.

406 Marcus Griffin, 2754 Regal Lane, spoke in opposition to the request. He is in law
407 enforcement and his biggest concern is that originally when this project was presented
408 it was 65 townhomes with garages and now they are going to 180 units. What that is
409 basically is an apartment complex. Not only are property values going to decline but
410 that is a transient type of resident. In his experience, in subdivisions that are similar to
411 apartment complexes or townhomes of this nature, the criminals use the term
412 "WalMart" because they can get everything they need for the home and auto there. He
413 has been victimized 3 times when he lived in one, and that's the type of people you will
414 be inviting in here. Statistics prove that in a span of 5 years, because of this type of
415 development, one murder will be directly related to a high density apartment complex
416 or townhome, two sexual assaults, three child molestations. He doesn't want that to be
417 his wife or son. Sixty-five townhomes with garages is a different type of clientele. You
418 start dropping apartment complexes in there, you are inviting criminal activity. It's
419 young people that will be there for a short time and he is totally in opposition to this
420 request. He feels there was not enough notification of the change from 65 townhomes
421 to 180.

422 He is also concerned about the traffic impact. If you put that many vehicles in that
423 small of an area coming off of 417 and 426 it will create an unsafe environment.

424 **Commisioner Tremel asked Mr. Griffin to show the Board where his property**
425 **was located.**

426 He lives in Bear Creek Subdivision, which is right on SR 426, right across the street from
427 all the proposed development. He would like to see nice homes going in there because
428 it would invite a different class of people.

429 Mr. Stelling gave his rebuttal. He said he has tried very hard to work with Mr. and Mrs.
430 Seliga. At the zoning hearing several months back, he gave them everything they
431 asked for. He gave them a 40' setback, additional landscaping and moved the
432 amenities away from them. He has tried and will continue to try to make them happy.

433 Regarding Ms. Ackers concern, there are a number of recreational facilities shown on
434 the plan.

435 He said that Mr. Griffin is not correct in calling these apartments. These are not
436 apartments. These are nice townhomes and are well below the zoning that is allowed
437 in the HIP. He has made every effort to make this a quality development. It is nothing
438 like an apartment complex.

439 **Commissioner Tremel asked if the design of the residential portion of this**
440 **project could be elaborated upon?**

441 Mr. Stelling said they are \$100,000 and up townhomes that are going to be sold to
442 individuals.

443 **Commissioner Mahoney asked what size range are the townhomes?**

444 Mr. Secoya, Beazer Homes, said they will be cluster buildings. The buildings will be 6 to
445 8 units, each being two-story. The bottom floor and the top floor combined will be
446 roughly 1,200 square feet. Each will have its own individual identity although there are
447 zero lot line walls between them.

448 Mr. Stelling said it should also be mentioned that this is a gated community. This is
449 going to be a nice development.

450 **Commissioner Tremel asked what density is allowed in a HIP land use as**
451 **opposed to the density that is being requested?**

452 Mr. West said the HIP land use allows up 20 dwelling units per net buildable acre.
453 However, one of the things that HIP does not allow is single family. You have to build
454 over 7 units per acre in a HIP area because the intent is that it be a higher intensity so
455 it doesn't allow for single family type subdivisions. One of the things the County
456 Commission was concerned about is the number of apartment complexes that are being
457 approved but this is a fee simple ownership and the County Commission is actually
458 trying to encourage HIP areas to develop as fee simple ownership as opposed to rental
459 communities. The density as proposed is about 17 dwelling units per acre with this
460 project of 180 units. It is well within what HIP allows and actually what HIP anticipates.

461 Motion by Commissioner Mahoney to recommend approval of this major
462 revision to the PUD Preliminary Master Plan subject to the 10 staff conditions
463 as modified tonight. Second by Commissioner Harris.

464 Commissioner Tremel said that he understands the feelings of Ms. Saliga,
465 however, when we create land use, we are creating an intent that a certain
466 type of development go in with a certain density. That's why we created the
467 High Intensity Land Use Development and put it appropriately next to the
468 Central Florida Greenway. He would feel extremely different about this
469 proposal if it was an apartment complex but putting in a product that is
470 going to be \$100,000, you are not talking about renting to disadvantaged
471 individuals. This is a project that is very much needed in this community.

472 Commissioner Harris said the plan is to have a light at the intersection of
473 those two properties, which would serve all three of the properties. This
474 would be the last light before getting onto the Greenway. If you look at this
475 particular location, it's designated HIP because it can handle the intensity. It
476 is intended to have that intensity. Throughout the County there is a need for
477 high intensity land uses. If you can't put high intensity land uses right next
478 to a major state road, adjacent to the Greenway, where can you put them?
479 As a matter of policy, this is an ideal place for a high intensity use. It's the
480 last traffic signal before the intersection with the Greenway. It is a State
481 road, an artery next to a freeway, so it's the ideal location for intensity. As
482 citizens of Central Florida the two things we love to hate are sprawl and
483 density. If we reduce the intensity and move it out so that it's less intense,
484 then we hear from everyone who complains about sprawl. When we increase
485 the intensity and put it at the intersection of major roads, then we hear from
486 those who don't like intensity. The fact of the matter is, we need some large
487 lot single family housing but we also need small lot, zero lot line homes to
488 meet the needs of other components of our population. We have a
489 commitment from the landowners and their agents that access to the light
490 will be worked out. We have fee simple homes in the \$100,000 to \$125,000
491 range and that is almost affordable housing. It's the kind of housing that
492 working people need. It is a gated community and the only people that
493 should be in there are the ones that have access through that gate. It is not
494 an apartment where you have a free for all, it's fee simple homes owned and
495 occupied by the people who live there, it's reasonably priced housing and it's
496 near an expressway. All in all we have a development that is meeting a need
497 in the community that has an intensity in a location that is designed for that
498 intensity, where the roadway can handle the intensity. For those reasons,
499 despite all the other concerns that are voiced, this is exactly the kind of
500 development that we wanted to be brought forward for incorporation in a
501 HIP area.

Chairman Tucker said he could not disagree with Commissioner Harris on the theory that he has stated, however, when you look at the timing, the development of the HIP and the zoning of the HIP didn't coincide with the way the surrounding property was developed, which was single family. He remembers when this Board looked at a property owned by the Slaytons to the north. Then this Board looked at a property next to Trinity Bay and cut down on the density. For well over a year we've heard at every hearing that "we're this close to getting this intersection worked out, we're this close to getting this easement worked out". He feels it is poor planning on our part and not prudent to move forward on this and he will not be voting for the motion. He would consider it if these things were done but we have no way of telling what is going to be coming out of this intersection next. We are looking at 65 versus 180. When we get the actual road put in there he would like to see what changes will be at the next meeting.

Commissioner Harris said the last time this came before this Board, the adjacent property owner was represented by Christy Wilson who was in opposition. At this time the adjacent property owners representative came before us and said they were at the point of reaching an agreement. Rather than being in opposition, they are now in support. The fact that there is a turnaround is assurance that an agreement will be reached.

Chairman Tucker said that prudent planning would say, get it reached and then we'll look at it.

Commissioner Tremel asked if there is a guarantee that this will be developed as fee simple?

Mr. West said that is actually not tied down. That is what they are proposing.

Commissioner Tremel said that should be tied down.

Commissioner Mahoney said these are individually platted at high expense only so you could sell them individually. If they intended to rent these out in mass, it would be designed differently.

Commissioner Tremel said that he understood. Commissioner Mahoney explained the guarantee.

Motion passed 6-1. Chairman Tucker voted against the motion.

534 **C. DEEP LAKE PSP;** *Design Services Group / Ronald Henson; approximately*
535 *18.66 acres more or less; preliminary subdivision approval of 80 single*
536 *family townhomes; zoned PUD; SW corner of Aloma Avenue*
537 *Commissioner Maloy - District 1 Shannon Suffron, Planner*

538 **Motion by Commissioner Mahoney to recommend approval the Deep Lake**
539 **PSP. Second by Commissioner Harris.**

540 **Motion passed 6-1. Chairman Tucker voted against the motion.**

541 **THIS ITEM WAS TAKEN OUT OF ORDER.**

542 **D. HICKMAN PROPERTY;** *(Charles McFarland, applicant); Approximately*
543 *1.16 acres; Rezoning from M-1 (Industrial) to C-2 (Retail Commercial*
544 *District); located on US Hwy 17-92, approximately 2000 feet north of the*
545 *Orange/Seminole County line.*
546 *Commissioner Henley - District 4 Kathy Fall, Senior Planner*

547 The applicant is requesting to rezone 1.16 acres that is currently zoned M-1 (Industrial)
548 to C-2 (Retail Commercial). The property is located on the west side of US 17-92
549 approximately 2,000' north of the Seminole/Orange County line. This section on US 17-
550 92, located to the north and west of the property, was planned for Industrial uses but
551 the current trend of development along the corridor has been for retail commercial
552 uses. The property owner is proposing to have uses allowed in the C-2 zoning district
553 consisting of 4 to 5 stores with a combined square footage of 7,000 square feet.

554 Staff recommends approval of the rezone from M-1 to C-2, for a 1.16 acre parcel
555 located on the west side of US 17-92 approximately 2,000' north of the
556 Seminole/Orange County line, based on staff findings.

557 1. The proposed rezoning is consistent with the Vision 2020 Plan policies related to
558 the Industrial future land use designation.

559 2. The proposed rezoning is compatible with adjacent commercial and industrial
560 uses and the development trend along the US 17-92 corridor

561 **Motion by Commissioner Mahoney to recommend approval of the rezoning**
562 **from M-1 to C-2. Second by Commissioner Tremel.**

563 **Motion passed unanimously. (7-0)**

THIS ITEM WAS TAKEN OUT OF ORDER AND HEARD WITH ITEMS VII. E & F.

VI. A. (OLD BUSINESS):

**FUTURE LAND USE ELEMENT TEXT AMENDMENT TO VISION 2020
NEW POLICY. LOT SPLITS IN THE COUNTY'S EAST RURAL AREA.**

Seminole County BCC; allowance of a single lot split in the County's East Rural Area for those lots meeting certain criteria prior to September 11, 1991.

Countywide

Matt West, Planning Manager

The proposed text amendment was continued from the July 10, 2002, LPA/P&Z meeting at staff's request in order to provide interested parties with sufficient time to review the policy. Copies have been distributed to the Development Advisory Board and environmental groups for their comments.

PROPOSED POLICY

Policy FLU 11.18 — Division of lots or parcels designated as A-I prior to September 11, 1991.

By January 31, 2003, the County shall adopt amendments to the Land Development Code that would permit those parcels located in the East Rural Area a single lot split (the subdivision of one parcel into two parcels) if all of the following requirements are met: 1) the lot split was approved by Seminole County prior to September; 2) the lot was not split prior to September 11, 1991, in accordance with the County's approval; 3) the property was zoned A-1 (Agriculture) prior to September 11, 1991, and 4) the County administratively rezoned the property to A-3, A-5, or A-10 (Rural Zoning Classifications) on September 11, 1991. The Land Development Code amendments shall provide specific criteria for approval or denial of the lot split.

In September, 1991, the County's Comprehensive Plan was amended to create the "East Rural Area" of Seminole County. This Plan amendment created and assigned a set of rural future land use classifications (Rural-3, Rural-5, and Rural-10) and associated rural zoning classifications (A-3, A-5, and A-10) to properties within the Rural Area. Many of these parcels were previously zoned A-1 and some were rendered non-conforming or otherwise inconsistent with provisions of the Land Development Code related to development. Existing policies in the Vision 2020 Plan permit development of non-conforming parcels in the Rural Area which do not meet the minimum parcel size of the current zoning and land use if they were part of a waiver to plat, subdivision plat, or 5-acre Subdivision which was approved or executed prior to the administrative rezoning. Current Vision 2020 Plan policies do not address lot splits approved prior to the administrative rezoning. Thus, an owner who received County approval for a lot split while zoned A-I would now be unable to execute the split.

Staff is proposing that owners of parcels who were granted approval by the County for a lot split (division of one parcel into two parcels) under pre-existing A-I zoning, but did not execute the split prior to 1991, be permitted now to execute the split as approved. The property owner would be required to provide documentation that the lot split was

approved by the County and was for property administratively rezoned to a less intense district within the East Rural Area.

Policy FLU 11.15 of the Vision 2020 Plan indicates that the existing provision for development of non-conforming properties included in pre-1991 plat waivers, subdivision plats, and 5-acre subdivisions, results from findings that:

1. These lots and parcels are a generally accepted development pattern by residents of the East Area of Seminole County;
2. The grandfathering of these certain lots and parcels will not adversely affect the overall intent and objectives of the Rural Area Plan;
3. Development of lots deriving from these lots and parcels will be subject to all Land Development Code provisions and therefore will further implement the provisions of the Rural Area Plan; and
4. There are expressed expectations and intent by these existing property owners to use their property in a certain manner as evidenced through their application for and action by the County to record a parcel, approve and maintain as valid a final Development Order or execute a 5-Acre resolution.

Staff is of the opinion that the adoption of the proposed policy would be consistent with the above findings. The existence of documentation of an approved lot split indicates the expectations and intent by the property owners to subdivide their property, and the proposed policy does not increase densities above what could have occurred prior to 1991.

If the Board votes to transmit the amendment to DCA as part Of the Fall, 2002, large-scale amendment cycle, it would return for an adoption hearing, tentatively scheduled for the November 26, 2002, Board meeting. At that time, Staff would bring forward a proposed revision to the Land Development Code which would implement the proposed Vision 2020 Plan policy addition. The Code revisions will specify certain criteria under which the lot splits may be approved or denied.

ORIGINAL STAFF RECOMMENDATION

Planning staff recommends transmittal of the proposed text amendment allowing division of non-conforming lots into two parcels in the East Rural Area, under special circumstances, in the A-3, A-5, and A-10 zoning districts, to the Department of Community Affairs for review.

Mr. West presented this item to the Board.

Staff was directed by the Board of County Commissioners to investigate the possibility and research the existence of potential lot splits that had been sought by property owners prior to our Comprehensive Plan being adopted in 1991 and possibly honoring or grandfathering in those lot splits that may have been approved in some official form by the staff. Back when we adopted the 1991 Comprehensive Plan, we created new land uses, R-3, R-5 and R-10 which reduced the density in the rural area over what it used to be prior to 1991 which was 1/du per acre. Staff has done a lot of research and

645 went through all the lot split applications we had on record and it appears that
646 potentially there are 30 property owners that may be effected by this text amendment.
647 Some of those documents are questionable about the information on them as to
648 whether or not they were actually approved. Several of them were obtained by realtors
649 and not the property owners themselves.

650 Staff, at this point, even though we have drafted this under the direction of the
651 Commission, would not recommend approval of this amendment. We have wrestled
652 with how we would implement this and at this point staff does not feel comfortable with
653 any of the ideas or concepts we came up with to grandfather in lots splits that may
654 have been approved prior to 1991.

655 Staff recommends denial at this point or if this Commission and the Board so desires, at
656 least continue it to the Spring 2003 Cycle to give staff more time to work out the
657 details.

658 Even if we adopted this amendment and implemented some kind of Land Development
659 Code change, at the most it would affect maybe 30 property owners and probably not
660 even that many after we further scrutinize it.

661 **Commissioner Mahoney asked that since the Commission asked this to come**
662 **forward, shouldn't this Board vote on it and let them decide since the BCC is**
663 **the applicant?**

664 Mr. West said yes, that was correct.

665 PUBLIC COMMENT

666 Sam Kendall, 510 Hermits Trail, asked if any of the present Board members of this
667 Board would be affected by this decision?

668 **Chairman Tucker said no.**

669 Mr. Kendall is concerned about sprawl and he would like to see the cities be as compact
670 as we can keep them to reduce our energy usage and keep the rural areas open for
671 recharge and wildlife. That was the intent of the Plan that was approved in 1991. That
672 Plan set up certain boundaries actually reducing the zoning that we had at that time.
673 However, in that Plan, there was a lot of citizen input and all the citizens in that area
674 were notified and had the opportunity to participate in that structuring of that Plan.
675 The Plan has been working now for 12 years. There were certain conditions in the Plan
676 that gave it certain flexibility. They were built into the Plan. He is confused because at
677 one point the County Commissioner voted to drop this issue and now the Commissioner
678 is bringing back this back. He thinks that the Plan that was adopted in 1991 was a
679 good Plan. It has flexibility and he hopes that that Plan will stay in existence.

680 Andrea Holman, 1208 Clinging Vine Place, supports staff's recommendation to drop this.

681 Deborah Schafer, 1750 Brumley Road, is the president of the Southeast Seminole
682 Voter's Association. They support staff's recommendation for this item to be continued
683 to the look into it further. She has discussed this with staff and agrees that they are
684 not a point where they can make any type of decision.

Don Fisher said that there are excerpts from the original direction as far as dropping a certain element relative to the issue of gross net density and we got direction to look at it at that time. There was a subsequent meeting to where that was clarified, we did get direction to look at this element. He has been involved with the research of the Planning Division, with the community groups and the DAB members. He reiterated staff's recommendation that we are not in support of this ordinance and recommend that this Commission recommend denial or recommend a continuance to the Board of County Commissioners or perhaps do both.

Commissioner Tremel said on this proposal, even though staff is not recommending approval, would have a considerable less effect on density in the rural area than the original proposal that was brought by the Development Review Committee.

Mr. Fisher said that is correct.

Commissioner Tremel said that might be part of the confusion. This is radically different from what was first floated and that is what the Commission said they wanted to drop. This is taking a look at people who, prior to 1991, may be had 5 acres of land and planning on someday subdividing it so their kid could have a house next to them. He would like to see to for us to get to where the intent was to get. People who were impacted could have some right to subdivide their property in a very minimal way. There are only 30 sites that have been identified?

Mr. Fisher said there are about 30 identified, perhaps 20 are eligible. Of those 20, the documents that we have back at the office, we're not certain exactly what it was they were granted. It wasn't specific. They are open-ended types of documents. Then if you were to take those one we can actually identify, there were realtors that came back in or prospective buyers and not the actual property owners or those properties have changed hands. So you're really talking about 5, 6, 7 or 8 people and is it worth having something so specific to those few properties and just the sheer confusion that this ordinance has created trying to process it. Staff feels it is not good planning to select out these few parcels for this particular circumstance.

Commissioner Mahoney asked how would these few people exercise their rights without the benefit of this policy amendment?

Mr. Fisher said there is the philosophy that they had the right to exercise their rights back in 1991 when this regulation was adopted. There were many property owners that came in and we were inundated with lot splits at that time. Staff feels there was an opportunity at that time and that doing it this way is not the way to resolve any issues, if there are any, that are outstanding.

722 **Commissioner Hattaway said if they had the right back then to use their**
723 **property, they should have the right today to use that property. They have**
724 **not been properly compensated for any of these rights that have been taken**
725 **away. We all know, because of the Harris Act, this would not be allowed**
726 **today.**

727 Mr. Fisher said that is the bigger issue of what the Board directed us not to pursue.
728 They refined that to look at these specific properties of people that came in, made a
729 request and got something in writing from us and then left and then they came back in
730 and perhaps weren't able to split it or something happened.

731 **Commissioner Hattaway asked what about the people who didn't come in,**
732 **who didn't see the rendering in the newspaper. Are they are just out of luck?**

733 Mr. Fisher said this is one of the points that staff grappled with. Why is it fair for
734 someone who took the time to come in and get the form and not necessarily fair to
735 those people who may have educated themselves in other ways, like looking up the
736 Code or some other means.

737 **Commissioner Hattaway said it probably never dawned on them that it would**
738 **be necessary.**

739 Mr. Fisher said that very well may be true but the Board directed us not to pursue that
740 element further and to look at these specific properties.

741 **Chairman Tucker asked how can you equate this situation with the one that**
742 **exists in the areas in the subdivision of the 25' lots behind Altamonte Springs**
743 **that was heavily marketed to military personnel who were away and then**
744 **coming back? Was it in 1971 that we changed the Code?**

745 Mr. Fisher said yes, it was July 28, 1970, when the County adopted subdivision
746 regulations.

747 **Commissioner Tucker said that put those lots into a nonconforming status**
748 **and we deal with those through the Board of Adjustment. There is a lot of**
749 **similarities with that situation and the ownership of these properties.**

750 **Commissioner Hattaway said this is land that is owned by individuals**
751 **probably for many years in many cases. It is easy for us to lose sight of the**
752 **fact that this private property ownership we're talking about. You start**
753 **taking away bundles or sticks of that bundle and it gets a lot of people upset.**

754 **Commissioner Tremel asked how many requests have there been for**
755 **residents in the area to have a split? It is his understanding that the original**
756 **request came from the Development Advisory Board.**

757 Mr. Fisher said he is not aware of anyone that came in from community and made that
758 request to have these rights replaced on their property.

Commissioner Tremel asked if those individuals came forward now, would they have the right to go to the Board of Adjustment to request something?

Mr. Fisher said if they a legally created parcel and they were substandard from a lot size standpoint, yes, they could ask for a lot size variance. If they are legally created prior to September 11, 1991, and they are under the minimum lot size, then they would be eligible for a building permit and would not even need a variance.

Mr. West said there have been instances when property owner have come in and had to be told that they could not split their land because of the change so staff has run into this on occasion.

Motion by Commissioner Tremel to postpone this item to the Spring 2003 Cycle for further consideration. Second by Commissioner Hattaway.

Commissioner Mahoney said this is a concept that he approves of, however, if more work is needed, then staff needs to do that. He wanted staff to know that philosophically he agreed with the concept of the lot splits.

Motion passed unanimously. (7-0)

E. ORDINANCE allowing P & D Director to grant lot size/width variance if within 3% of required size or width. This ordinance will implement Policy FLU 5.19 of the Future Land Use Element of the County's Comprehensive Plan as amended on 08/13/02.)

Countywide

Matt West, Planning Manager

Mr. West requested the Board to continue this item to the regularly scheduled November 6th meeting. Staff is still trying to work out the final language.

Motion by Commissioner Mahoney to continue this item to the November 6th regularly scheduled LPA meeting. Second by Commissioner Tremel.

Motion passed unanimously. (7-0)

F. ORDINANCE AMENDING THE SEMINOLE COUNTY CODE OF ORDINANCES AND LAND DEVELOPMENT CODE to clarify legislative intent regarding separation requirements; providing legislative findings; clarifying legislative intent in the Seminole County Code of Ordinances and Land Development Code regarding separation requirements; Repealing Emergency Ordinance 2002-28; providing for codification; providing for severability and providing for an effective date.

Countywide

Matt West, Planning Manager

The Land Development Code of Seminole County (LDC) provides for various separation requirements between uses, such as between outdoor advertising signs, adult entertainment establishments, alcoholic beverage establishments, telecommunication

798 towers, and other uses. Separation requirements may include from like establishments,
799 places of worship, schools or residential areas.

800 The County has consistently interpreted such requirements as to disregard adjacent
801 municipal and county boundaries when determining separation requirements. In a
802 recent decision by the Board of County Commissioners (Board), the Board upheld a
803 decision of the Planning Manager regarding an appeal of the Planning Manager's
804 interpretation that the term "any" applies to all sign separation requirements, regardless
805 of jurisdiction. This decision was later quashed by the Circuit Court of the Eighteenth
806 Judicial Circuit.

807 To avoid any possible misinterpretation of the County's intent in the future and to
808 confirm the County's interpretation and practice, the Board has determined that
809 adoption of this ordinance is necessary.

810 Staff recommends approval of the proposed ordinance with findings that:

811 1. The subject ordinance will clarify that wherever in the Seminole County Code of
812 Ordinances or Land Development Code there is a requirement for a minimum
813 distance or other type of separation specified regarding uses of land or
814 structures, type of facilities or otherwise, unless specifically stated to the
815 contrary it is to be presumed that the location of municipal and county
816 boundaries is not to be taken into account; and

817 2. The subject ordinance is consistent with the Seminole County Comprehensive
818 Plan (2020 Plan)

819 **Motion by Commissioner Mahoney to approve. Second by Commissioner**
820 **Tremel.**

821 **Motion passed unanimously. (7-0)**

822 **VIII. Planning Manager's Report**

823 Mr. West thanked the members for agreeing to have a special meeting being held on
824 September 18, 2002. On that agenda, staff intends to have the Celery Avenue land use
825 amendment and also on that agenda there will be the Heathrow Elementary/Middle
826 School site. Both items will have a lot of public participation.

827 He asked for that extra meeting because at the first meeting in October staff will be
828 having the Myrtle Street Community Meeting.

829 **IX. OTHER BUSINESS**

830 Tony Matthews, Principal Planner, briefed the LPA Board on the status of the School
831 Board's appointment of a representative to serve on the County's Land Planning
832 Agency. He referred to the letter written by Kevin Grace to Paul Hagerty, School Board
833 Superintendent, and stated that the County had not received a response as of yet.
834 He noted that the letter states that the Board of County Commissioners has determined
835 that the appointment would be for a nonvoting member representing the School Board.

836 **X. ADJOURNMENT**

837 Meeting adjourned at 8:45 p.m.

838 Respectfully Submitted,

839

840

841

842 _____
Fran Newborg, Recording Secretary

843 The public hearing minutes of the Seminole County Land Planning Agency/Planning and
844 Zoning Commission is not a verbatim transcription. Recorded tapes of the public
845 hearing can be made available, upon request, by contacting the Seminole County
846 Planning Division Office, 1101 E. First Street, Sanford, Florida, 32771, (407) 665-7371.